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Office of Campaign and Political Finance

One Ashburton Place, Room 411

Boston, MA 02108

Advisory Opinion

June 6, 2001

AO-01-14

Richard E. Connolly
Ferriter Scobbo & Rodophele PC
75 State Street
Boston, MA 02109

Re: Political fundraising in Melrose Memorial Hall

Dear Mr. Connolly:

This letter is in response to your April 24 request for an opinion regarding political fundraising in the Melrose Memorial Hall.

You have stated that you are a candidate for Mayor of Melrose. You are exploring the idea of holding a political fundraising event in the Memorial Hall. The building is a municipally owned function hall located in the center of the city. It is a popular site for many private events such as weddings, art shows, charitable fund-raisers, the local symphony, theatrical and choral performances, meetings of the local Rotary Club and Disabled American Veterans, and other private events. Less frequently, it is the site of public events such as the biannual inauguration ceremonies. A Board of Trustees appointed by the Mayor governs its management. The funds generated by the building are paid into the city treasury and the city provides funds to pay a hall manager and for the upkeep of the hall.

In 1994 this office issued an advisory opinion on essentially the same question involving the same building (AO-94-04). The office stated that the building was not a building “occupied for municipal purposes” and that therefore political fundraising events could be held there. One fact now is different.

In 1994 the one small office in the building was vacant. Today a public employee, Ms. Millie Rich, occupies that office. Ms. Rich oversees the use of the hall. In 1994 she had the same responsibilities, but at that time she had an office in City Hall, which is separated from Memorial Hall by the fire station. Sometime after 1994 Ms. Rich moved her office to Memorial Hall. Her office

contains her desk, a computer, a fax machine, a telephone, and a file cabinet. Most back-up documentation for financial transactions is located in City Hall, not in Ms. Rich's office.

Other than Ms. Rich's office being in the hall, the facts as stated in AO-94-04 remain the same. She still reports to a Board of Trustees. Many private groups rent the hall. The main hall on the first floor can accommodate around 500 people and a smaller meeting space on the second floor can accommodate about 150 people.

The fundraising event would occur in the main hall. Ms. Rich would not be involved in planning the event, other than to arrange for the rental of the hall. You have stated that she would not be involved in the solicitation¹ of funds, either directly or indirectly. No fundraising would occur in her office. You expect to pay the fair rental cost for the time and date of the rental and expect that other candidates would receive the same treatment if they also asked to use the hall.

QUESTION

May the Melrose Memorial Hall be used for political fundraising purposes?

ANSWER

Yes.²

DISCUSSION

The campaign finance law provides in part that "[n]o person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen."³ See M.G.L. c. 55, § 14.

In the 1994 Melrose Memorial Hall opinion we noted that the building contained no offices or agencies of government. We did not, however, analyze the significance of this fact in reaching our conclusion. In another opinion issued in 1994 we stated, however, "the fundamental question as to whether a building is occupied for governmental purposes must be determined by a review of all the circumstances relative to the building's use." See AO-94-38. The presence of an office occupied by a public employee is, although significant, only one factor in analyzing whether a building is subject to section 14.

In a 1989 opinion regarding the Hynes Veterans Memorial Convention Center, we concluded that a state-owned building was not "occupied for state, county or municipal purposes" because it was used primarily to accommodate gatherings of private parties. See AO-89-07. The convention center contained an office used by the Massachusetts Convention Center Authority. We determined, however, that because the purpose of the facility was primarily to accommodate gatherings of private

¹ To ensure compliance with section 13 of chapter 55, Ms. Rich also may not directly or indirectly *receive* campaign contributions.

² You also asked if the hall could not be used for a fundraiser, if it could be used for a rally or gathering such as a "Meet the Candidate" night, at which funds would not be solicited, but would involve your collecting names, addresses, and phone numbers for possible future solicitation. Since the answer to your first question is "yes," no response was needed to this question.

³ Section 13 states that public employees may not solicit or receive contributions "for any political purpose whatever."

parties, the building was not “occupied for state purposes.” Therefore, parts of the building other than the Authority’s office could be used for a political fundraising event.

Section 14 was enacted to protect all persons working in, or visiting, buildings or parts thereof occupied for state, county, or municipal purposes from being subjected to the pressures of political solicitation. See AO-94-17. With this goal in mind, this office has consistently stated, as we did in the Hynes Convention Center opinion and in our first Melrose Memorial Hall opinion, that where a building is used primarily to accommodate gatherings of private parties, the building is not, absent the presence of other factors supporting such a conclusion, being used for state, county or municipal purposes. A private function at Memorial Hall may include a public employee such as a city custodian or detail police officer. These tasks are related to the private function and do not lead to the conclusion that the building is occupied for governmental purposes. The use of an office in the building by a public employee would be a contributing factor supporting a conclusion that the building is “occupied for municipal purposes,” but standing alone, it does not lead to that conclusion.

If a public employee using an office or otherwise having responsibilities in a building might be subjected to unwanted pressures in connection with a political fundraising event, the building would be subject to section 14. Similarly, if visitors coming to the building for purposes not related to the fundraising event might be subjected to such pressures, the areas of the building where the visitors might be present would be within the scope of section 14. Based on the facts described in your letter it would seem that neither circumstance would likely occur in Melrose Memorial Hall if the building were used for a political fundraising event. Therefore, the building’s main hall may be used for such purposes.

This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter and your conversations with OCPF staff. Please contact us if you have further questions.

Sincerely,

A handwritten signature in cursive script, reading "Michael J. Sullivan", followed by a vertical line.

Michael J. Sullivan
Director

MJS/gb